IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INCOME TAX APPLICATION NO.1 OF 1999

The Commissioner of Income Tax,
Mumbai City-V,
Mumbai ...Applicants.

V/s.

Hindalco Industries Ltd. ...Respondents.

Dr.P.Daniel with Mr.G. Hariharan for the Applicants.
Mr.S.J.Mehta for the Respondent.

CORAM: S.RADHAKRISHNAN &
J.H.BHATIA, JJ.
DATE : 8th August, 2005.

P.C.:

1. Heard the learned counsel for the Applicants and the learned counsel for the Respondents. By this Application, the Commissioner of Income-tax seeking a reference under section 256(1) of the Income Tax Act with regard to the following substantial question law.

> "Whether, on the facts and in the circumstances of the case and in law, the ITAT was justified in upholding the order of CIT (A) by allowing the claim of the assessee and cancelling the disallowance made by the A.O. u/s. 143(1)(a) read with Section 154

of the Act for the assessment year 1993-94/1994-95/1995-96?"

2. After hearing both the parties for sometime, both the parties fairly state that the above question is already been squarely decided by the two judgments of our Court in **Khatau Junkar Ltd. And Another v. K.S.Pathania And Another (Bombay) 196 ITR 55 and in Bank of America N.T. And S.A. v. Deputy Commissioner of Income-tax And Another 200 ITR 739** are squarely against the Revenue and in favour of the Assessee. Under the aforesaid facts and circumstances, we dismiss the above Application.

(S.RADHAKRISHNAN,J.)

(J.H.BHATIA, J.)